

**TITLE 7           HEALTH**  
**CHAPTER 6       FOOD HANDLING**  
**PART 2           FOOD SERVICE AND FOOD PROCESSING**

**7.6.2.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.  
[7.6.2.1 NMAC - Rp, 7 NMAC 6.1.001, 08/12/2000; Rp, x/x/2016]

**7.6.2.2 SCOPE:** All food service establishments and food processing establishments.  
[7.6.2.2 NMAC - Rp, 7 NMAC 6.1.002, 08/12/2000; Rp, x/x/2016]

**7.6.2.3 STATUTORY AUTHORITY:** Section 74-1-8 NMSA 1978 directs the Environmental Improvement Board to promulgate regulations and standards for food protection. Section 74-1-9 NMSA 1978 directs the procedures for adoption. Section 25-1-4 delineates requirements of food service establishments to prepare and serve food in a manner safe for human consumption, free from adulteration, spoilage, contamination and unwholesomeness. Section 25-1-7 NMSA 1978 authorizes the department of environment to execute any provisions of the Food Service Sanitation Act (Chapter 25, Article 1 NMSA 1978.)  
[7.6.2.3 NMAC - Rp, 7 NMAC 6.1.003, 08/12/2000; Rp, x/x/2016]

**7.6.2.4 DURATION:** Permanent.  
[7.6.2.4 NMAC - Rp, 7 NMAC 6.1.004, 08/12/2000; Rp, x/x/2016]

**7.6.2.5 EFFECTIVE DATE:** February 1, 2016 unless a later date is cited in the History of 7.6.2 NMAC.  
[7.6.2.5 NMAC - Rp, 7 NMAC 6.1.005, 08/12/2000; Rp, x/x/2016]

**7.6.2.6 OBJECTIVE:** The objective of these regulations is to protect the public health by establishing standards and provisions for the safe operation of food establishments to assure that consumers are not exposed to adverse environmental health conditions.  
[7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

**7.6.2.7 DEFINITIONS:**

**A. Adoption of Food Code definitions.** Except as otherwise provided below, Part 1-2 (Definitions) of the 2013 United States Food and Drug Administration Model Food Code (“Food Code”) is hereby adopted and incorporated by reference.

**B. Modifications to Food Code Definitions.** The following terms defined in Food Code Part 1-2 have the meanings set forth herein, in lieu of the meanings set forth in Food Code Part 1-2.

(1) “Adulterated” has the meaning state in the New Mexico Food Act, NMSA 1978, Section 25-2-10.

(2) “Critical Control Point” means a point, step, or procedure in a food process at which a control measure can be applied and at which control is essential to prevent, reduce to an acceptable level, or eliminate an identified food hazard.

1           **(3)** “Critical Limit” means the maximum or minimum value to which a physical,  
2 biological, or chemical parameter must be controlled at a critical control point to prevent,  
3 eliminate, or reduce to an acceptable level the occurrence of the identified food hazard.

4           **(4)** “Drinking Water” means water that meets criteria as specified in 40 CFR 141  
5 National Primary Drinking Water Regulations 20.7.10 NMAC. Drinking Water is traditionally  
6 known as “potable water”, and includes the term “water” except where the term used connotes  
7 that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,”  
8 and “nondrinking” water.

9           **(5)** “Food Code” means the 2013 United States Food and Drug Administration  
10 Model Food Code

11           **(6)** “Food Establishment” means an operation that stores, prepares, packages,  
12 serves, vends Food directly to the consumer, or otherwise provides Food for human consumption  
13 such as a restaurant; satellite or catered feeding location; catering operation if the operation  
14 provides food directly to a consumer or to a conveyance used to transport people; market;  
15 vending location; conveyance used to transport people; an institution; or food bank; and  
16 relinquishes possession of food to a consumer directly, or indirectly through a delivery service  
17 such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is  
18 provided by common carriers.

19               **(a)** Food Establishment includes:

20                   **(i)** An element of the operation such as a transportation vehicle or a  
21 central preparation facility that supplies a vending location or satellite feeding location unless the  
22 vending or feeding location is permitted by the regulatory authority; or

23                   **(ii)** An operation that is conducted in a mobile, stationary,  
24 temporary, or permanent facility or location; where consumption is on or off the Premises; and  
25 regardless of whether there is a charge for the Food.

26               **(b)** Food Establishment does not include:

27                   **(i)** An establishment that offers only prepackaged foods that are not  
28 time/temperature control for safety foods;

29                   **(ii)** A produce stand that only offers whole, uncut fresh fruits and  
30 vegetables;

31                   **(iii)** A Food Processing Plant; including those that are located on the  
32 premises of a Food establishment;

33                   **(iv)** A kitchen in a private home if only baked goods (e.g., cookies,  
34 brownies, cakes, fruit pies) that are not time/temperature control for safety food, are prepared for  
35 sale or service at a fundraising function (e.g., a religious or charitable organization’s bake sale) if  
36 the consumer is informed by a clearly visible placard at the sales or service location that the food  
37 is prepared in a kitchen that is not subject to regulation and inspection by the Regulatory  
38 Authority;

39                   **(v)** An area where food that is prepared as specified in Subparagraph  
40 (3)(d) of this definition is sold or offered for human consumption;

41                   **(vi)** A kitchen in a private home, such as a facility licensed by or  
42 registered with the Department of Health, or the Department of Children, Youth and Families, or  
43 a bed-and-breakfast operation that prepares and offers Food to guests if the home is owner  
44 occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal  
45 offered, the number of guests served does not exceed 18, and the consumer is informed by  
46 statements contained in published advertisements, mailed brochures, and placards posted at the

1 registration area that the food is prepared in a kitchen that is not regulated and inspected by the  
2 Regulatory Authority;

3 (vii) A private home that receives catered or home-delivered food  
4 that is served to non-paying guests;

5 (viii) A private home or home environment where residents take part  
6 in preparing and serving their own meals;

7 (ix) A pot-luck dinner or similar event in which the food is prepared  
8 and/or contributed by the participants and for which no fee is charged;

9 (x) A custom exempt meat processing facility where animals are  
10 processed for personal use by the animal owner as food and not for sale or service in a food  
11 establishment;

12 (xi) A dairy establishment as defined in the New Mexico Food Act;

13 (xii) An animal slaughter facility;

14 (xiii) An aquaculture facility that raises fish;

15 (xiv) A “pure honey” processing facility. “Pure honey” refers to  
16 natural liquid or solid honey extracted from the combs or in the comb taken from beehives with  
17 no processing or adding of additional ingredients; or

18 (xv) An operation that offers to consumers whole raw agricultural  
19 products.

20 (7) “HACCP Plan” means a document prepared in accordance with the principles  
21 of HACCP to ensure control of hazards which are significant for food safety.

22 (8) “Hermetically Sealed Container” means an airtight container that is designed  
23 and intended to be secure against the entry of microorganisms and to maintain the commercial  
24 sterility of its contents after processing, or to maintain the controls which prevent potential  
25 growth of microorganisms or the elaboration of toxins through acidity (pH) or water activity  
26 (aw).

27 (9) “Home-based Food Processing Operation” means any business in which a  
28 residential kitchen is permitted to process food not classified as a time/temperature control for  
29 safety foods (TCS) and is packaged and is offered directly to the consumer.

30 (10) “Public Water System” has the meaning stated in 20.7.10 NMAC.

31 (11) “Regulatory authority” means the New Mexico Environment Department.

32 (12) “Temporary Food Establishment” (TFE) means a food establishment that  
33 operates at a fixed location in conjunction with a single event or celebration for a period not  
34 exceeding the length of the event or celebration, and does not exceed thirty days.

35 **C. Additions to Food Code Definitions.** The following terms not defined in Food Code  
36 Part 1-2 have the meanings set forth herein when the terms are used in this Part.

37 (1) “Acid Food” means food that has a natural pH of 4.6 or below.

38 (2) “Acidified Food” means low-acid food to which acid(s) or acid food(s) are  
39 added and have a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or  
40 below. Carbonated beverages and food that are stored, distributed, and retailed under  
41 refrigeration are not classified as acidified food.

42 (3) “Control Point” means a step at which biological, chemical, or physical factors  
43 can be controlled.

44 (4) “Corrective Action” means an action to be taken when the results of  
45 monitoring at the critical control point indicate a loss of control.

46 (5) “Deviation” means failure to meet a critical limit.

1           **(6)** “Embargo” means an order of prohibition issued by the Regulatory Authority  
2 to prevent the movement and/or sale of food products which are suspected or known to be  
3 adulterated or do not meet appropriate health or legal standards.

4           **(7)** “Food Handler Card” means a card issued to an individual after successful  
5 completion of a Food Handler Training Program to function as a food employee.

6           **(8)** “Food Handler Training Program” means an Approved training program that  
7 allows a person to issue a Food Handler Card.

8           **(9)** “Good Manufacturing Practices” (GMPs) means the minimum sanitary and  
9 processing requirements related to production methods, equipment, facilities, and other controls  
10 that a Food Processing Plant must meet to assure that Food is safe and wholesome.

11           **(10)** “Hazard Analysis and Critical Control Point” (HACCP) means a Food  
12 safety management system that focuses on the identification, evaluation, and control of Food  
13 safety Hazards.

14           **(11)** “Hazard Analysis” means the process of collecting and evaluating  
15 information on hazards associated with the Food under consideration to decide which are  
16 significant and must be addressed in the HACCP plan.

17           **(12)** “Home-based Food Processing Operation” means any business in which a  
18 residential kitchen is Permitted to process Food that is not classified as a time/temperature  
19 control for safety (TCS) and is packaged and is offered directly to the consumer.

20           **(13)** “Jerky” means a dried, finished meat, poultry, fish, or game animal product  
21 having a water activity ( $a_w$ ) less than 0.85.

22           **(14)** “Low Acid Food” means any Food, other than alcoholic beverages, with a  
23 finished equilibrium pH greater than 4.6 and a water activity ( $a_w$ ) greater than 0.85. Tomatoes  
24 and tomato products having a finished equilibrium pH less than 4.7 are not classified as Low  
25 Acid Food.

26           **(15)** “Misbranded” has the meaning stated in the New Mexico Food Act, NMSA  
27 1978, Section 25-2-11.

28           **(16)** “Mobile Food Establishment” means a Food Establishment that is designed  
29 to be readily movable; completely retains its mobility; and is equipped to serve Food. Mobile  
30 Food Establishment includes Self-contained Mobile Units, Non Self-contained Mobile Units,  
31 Pushcarts, and Mobile Support Units.

32           **(17)** “Mobile Support Unit” means an enclosed motor vehicle department-  
33 licensed driven or towed wheeled vehicle used in conjunction with a New Mexico based  
34 servicing area that travels to, and services, other Mobile Food Establishments as needed to  
35 replenish supplies, including Food and potable water, clean the interior of the unit, or dispose  
36 of liquid or solid wastes.

37           **(18)** “Monitoring” means to conduct a planned sequence of observations or  
38 measurements to assess whether a process, point, or procedure is under control and to produce  
39 an accurate record for future use in verification

1           **(19)** “Non Self-Contained Mobile Unit” means an enclosed motor vehicle  
2 department-licensed driven or towed wheeled vehicle that is required to operate from a New  
3 Mexico based servicing area

4           **(20)** “Operational Plan” means a written plan outlining the product formulation,  
5 production steps, safety requirements, distribution, labeling, and recall procedures of a Food  
6 product that will be implemented by a Food Establishment or Food Processing Plant when  
7 processing packaged Food.

8           **(21)** “Process Authority” means an expert in the processes for controlling  
9 pathogenic microorganisms in Food, and as such, is qualified by education, training and  
10 experience to evaluate all of the aspects of pathogen control measures-and determine if such  
11 control measures, when properly implemented, will control pathogens effectively.

12           **(22)** “Pushcart” means a human propelled unit, equipped to serve Food, that is  
13 required to operate from a New Mexico based servicing area.

14           **(23)** “Recall” means a return of Food products that are either known or suspected  
15 to be Adulterated, Misbranded, or otherwise unsafe for human consumption, to the manufacturer  
16 or distributor, or that are disposed of by Approved methods.

17           **(24)** “Sanitation Standard Operating Procedures” (SSOPs) means written  
18 procedures specific to a single Food Processing Plant to be followed routinely for the  
19 performance of designated operations to ensure sanitary conditions and to prevent product  
20 adulteration in a Food Processing Plant.

21           **(25)** “Self-contained Mobile Unit” means an enclosed motor vehicle department-  
22 licensed driven or towed wheeled vehicle that is not required to operate from a New Mexico  
23 based servicing area.

24           **(26)** “Shelf-stable Product” means a product that is hermetically sealed and, when  
25 stored at room temperature, should not demonstrate any microbial growth.

26           **(27)** “Standard Operating Procedures” (SOPs) means written procedures to be  
27 followed routinely for the performance of designated operations in a Food Processing Plant.

28           **(28)** “Standards of Identity” means legal standards, defined by the FDA, for  
29 Foods regarding minimum quality specifications, including permitted ingredients and processing  
30 requirements, to be marketed under a certain name.

31           **(29)** “Sub-ingredient” means an ingredient within another ingredient that has been  
32 added to a Food and is declared parenthetically following the name of the ingredient or by  
33 dispersing each ingredient in its order of predominance in the ingredient statement without  
34 naming the original ingredient.

35           **(30)** “Validation” means that element of Verification focused on collecting and  
36 evaluating scientific and technical information to determine whether the HACCP system, when  
37 properly implemented, will control effectively the identified Food Hazards.

38           **(31)** “Verification” means those activities, other than monitoring, that establish  
39 the validity of the HACCP plan and that the system is operating according to the plan. It includes  
40 Validation procedures.

41 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

#### 7.6.2.8 FOOD ESTABLISHMENT REQUIREMENTS:

**A. Adoption of Food Code.** Except as otherwise provided, the 2013 United States Food and Drug Administration Model Food Code is hereby adopted and incorporated by reference.

**B. Modifications and Omissions to Food Code.** Except as otherwise provided, the following modifications and omissions are made to the incorporated Food Code.

(1) Modifications. The following provisions of the Food Code are modified in 7.6.2 NMAC:

(a) 3-201.15 Molluscan Shellfish. (A) Molluscan Shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. (B) Molluscan Shellfish shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(b) 3-202.18 Shellstock Identification. (A) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the Shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list: (1) Except as specified under paragraph (C) of this section, on the harvester's tag or label, the following information in the following order: (a) The harvester's identification number that is assigned by the Shellstock Control Authority, (b) The date of harvesting, (c) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the Shellstock Control Authority and including the abbreviation of the name of the state or country in which the shellfish are harvested, (d) The type and quantity of shellfish, (e) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days"; (2) Except as specified in paragraph (D) of this section, on each dealer's tag or label, the following information in the following order: (a) The dealer's name and address, and the certification number assigned by the Shellstock Control Authority, (b) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested, (c) The same information as specified for a harvester's tag under Subparagraphs (A)(1)(b)-(d) of this section, (d) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days." (B) A container of Shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under paragraph (A) of this section shall be subject to a hold order or seizure and destruction in accordance with NMSA 25-2-6. (C) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first. (D) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under Subparagraphs (A)(2)(a) and (b) of this section, individual dealer tags or labels need not be provided.

(c) 3-502.11 Variance Requirement. A food establishment shall obtain a variance from the regulatory authority as specified in § 8-103.10 and under § 8-103.11 before: (A) Smoking food as a method of food preservation rather than as a method of flavor enhancement; (B) Curing food; (C) Using food additives or adding components such as vinegar: (1) As a method of food preservation rather than as a method of flavor enhancement, (2) To render a food so that it is not time/temperature control of safety food; (D) Packaging time/temperature control for safety food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria*

monocytogenes are controlled as specified under § 3-502.12; (E) Operating a Molluscan Shellfish life-support system display tank used to store or display shellfish that are offered for human consumption; (F) Preparing food by another method that is determined by the regulatory authority to require a variance; (G) Sprouting seeds or beans.

(d) 4-205.10 Food Equipment, Certification and Classification. (A) Food equipment, including new and replacement equipment, shall be certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. Such accredited programs include, but are not limited to, the National Sanitation Foundation (NSF), Underwriters Laboratories (UL), Intertek ETL, or the Canadian Standards Administration (CSA). (B) Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with Parts 4-1 and 4-2 of this chapter.

(e) 4-301.11 Cooling, Heating, Holding Capacities and Use. (A) Equipment for cooling and heating food, and holding cold and hot Food, shall be sufficient in number and capacity to provide food temperatures as specified under Chapter 3. (B) Steam tables slow cookers, and other hot holding devices shall not be used in cooking, heating or reheating food as specified under §§ 3-401 and 3-403

(f) 5-102.11 Standards. Except as specified under § 5-102.12: (A) Water from a public water system shall meet the construction and drinking water quality standards specified in 20.7.10 NMAC; and (B) Water from a nonpublic water system shall meet: (1) The construction requirements and drinking water quality standards of a non-community water system as specified in 20.7.10 NMAC; and (2) The drinking water source setback requirements as specified in 20.7.3 NMAC.

(g) 5-102.13 Sampling. Except when used as specified under § 5-102.12, water from a non-public water system shall meet the sampling requirements of a non-community water system as specified in 20.7.10 NMAC.

(h) 5-203.13 Service Sink. (A) Except as specified in paragraph (C) of this section, at least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. (B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste. (C) When no health hazard will exist, the regulatory authority may approve an alternative method.

(i) 6-501.115 Prohibiting Animals. (A) Except as specified in paragraphs (B) and (C) of this section, live animals may not be allowed on the premises of a food establishment. (B) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result: (1) Edible fish or decorative fish in aquariums, shellfish or crustaceans on ice or under refrigeration, and shellfish and crustaceans in display tank systems; (2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas; (3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal; (4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if: (a)

1 Effective partitioning and self-closing doors separate the common dining areas from food  
2 storage or food preparation areas, (b) Condiments, equipment, and utensils are stored in  
3 enclosed cabinets or removed from the common dining areas when pets are present, and (c)  
4 Dining areas including tables, countertops, and similar surfaces are effectively cleaned before  
5 the next meal service; and (5) In areas that are not used for food preparation, storage, sales,  
6 display, or dining, in which there are caged animals or animals that are similarly confined, such  
7 as in a variety store that sells pets or a tourist park that displays animals. (6) Pet dogs in  
8 outdoor dining areas, if allowed by the food establishment, and: (a) Pet dogs are not allowed in  
9 any area where food is prepared; (b) Pet dogs are kept on a leash and under reasonable control  
10 at all times; (c) Pet dogs are not allowed on chairs, consumer's laps, tables, or other  
11 furnishings; (d) Consumers shall not feed pet dogs on food establishment tableware; and (e) A  
12 sign approved by the regulatory authority is posted at each entrance to the designated outdoor  
13 dining area stating the conditions under which pet dogs are allowed and alerting patrons that  
14 pet dogs are allowed and may be present. (C) Live or dead fish bait may be stored if  
15 contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and  
16 single-use articles cannot result.

17 **(j)** 8-103.10 Modifications and Waivers. (A) The Regulatory Authority  
18 may grant a variance by modifying or waiving the requirements of this Code if in the opinion  
19 of the Regulatory Authority a health hazard or nuisance will not result from the variance. If a  
20 variance is granted, the Regulatory Authority shall retain the information specified under § 8-  
21 103.11 in its records for the food establishment. (B) The Regulatory Authority shall grant the  
22 variance, grant the variance subject to conditions, or deny the variance within 15 working days  
23 following the receipt of the variance request.

24 **(k)** 8-201.11 When Plans Are Required. Except for Temporary Food  
25 Establishments, a permit applicant or permit holder shall submit to the Regulatory Authority  
26 properly prepared plans and specifications for review and approval at least 30 calendar days  
27 before: (A) The construction of a Food Establishment; (B) The conversion of an existing  
28 structure for use as a Food Establishment; (A) The remodeling of a Food Establishment or a  
29 change of type of Food Establishment or Food Operation as specified under ¶ 8-302.14 (C) if  
30 the Regulatory Authority determines that plans and specifications are necessary to ensure  
31 compliance with this Code. (B) Opening or changing ownership of an existing Food  
32 Establishment, if current plans and specifications are not on file with the Regulatory Authority.

33 **(l)** 8-301.11 Prerequisite for Operation. (A) A person may not operate a  
34 food establishment or servicing area without a valid permit to operate issued by the Regulatory  
35 Authority. (B) Except as specified in paragraphs (C) and (D) of this section, when more than a  
36 single food establishment is operated on the premises, each one shall be separately permitted;  
37 (C) Bars operating in conjunction with a food establishment do not require a separate permit;  
38 and (D) food establishment used as a servicing area do not require a separate permit.

39 **(m)** 8-301.12 Responsibility for Operation. (A) Except as specified in  
40 paragraphs (B) and (C) of this section, the permit holder shall be responsible for all food  
41 operations conducted on the premises for which a permit is issued; (B) permit holders shall  
42 not be responsible for food operations on the premises when another permit holder is  
43 operating with a permit; and (C) Each permit holder shall be responsible for shared facilities  
44 or equipment on the premises.

45 **(n)** 8-302.11 Submission 30 Calendar Days Before Proposed Opening.  
46 (A) Except as specified in paragraph (B) of this section, an applicant shall submit an



1 application for a Permit at least 30 calendar days before the date planned for opening a food  
2 establishment. (B) An applicant shall submit an application for a Permit at least 2 business  
3 days before the date planned for opening a temporary food establishment.

4 **(o)** 8-302.13 Qualifications and Responsibilities of Applicants. To  
5 qualify for a Permit, an applicant shall: (A) Be an owner of the Food Establishment or an  
6 officer of the legal ownership; (B) Comply with the requirements of this Code; (C) As  
7 specified under § 8-402.11, agree to allow access to the food establishment and to provide  
8 required information; and (D) Pay the applicable permit fees when approval to open is granted  
9 by the Regulatory Authority.

10 **(p)** Contents of the Application. The application shall include: (A) The  
11 name, mailing address, telephone number, and signature of the person applying for the permit  
12 and the name, mailing address, and location of the Food Establishment; (B) Information  
13 specifying whether the Food Establishment is owned by an association, corporation,  
14 individual, partnership, or other legal entity; (C) A statement specifying whether the Food  
15 Establishment: (1) Is mobile or stationary and temporary or permanent, and (2) Is an operation  
16 that includes one or more of the following: (a) Prepares, offers for sale, or serves  
17 time/temperature control for safety food: (i) Only to order upon a consumer's request, (ii) In  
18 advance in quantities based on projected consumer demand and discards food that is not sold  
19 or served at an approved frequency, or (iii) Using time as the public health control as specified  
20 under § 3-501.19, (b) Prepares time/temperature control for safety food in advance using a  
21 food preparation method that involves two or more steps which may include combining  
22 time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold  
23 holding; freezing; or thawing, (c) Prepares food as specified under Subparagraph (C)(2)(b) of  
24 this section for delivery to and consumption at a location off the premises of the food  
25 establishment where it is prepared, (d) Prepares food as specified under Subparagraph  
26 (C)(2)(b) of this section for service to a highly susceptible population, (e) Prepares only food  
27 that is not time/temperature control for safety food, or (f) Does not prepare, but offers for sale  
28 only prepackaged food that is not time/temperature control for safety food; (D) The name,  
29 title, address, and telephone number of the person directly responsible for the food  
30 establishment; (E) The name, title, address, and telephone number of the person who functions  
31 as the immediate supervisor of the person specified under paragraph (D) of this section such  
32 as the zone, district, or regional supervisor; (F) The names, titles, and addresses of: (1) The  
33 persons comprising the legal ownership as specified under paragraph (B) of this section  
34 including the owners and officers, and (2) The local resident agent if one is required based on  
35 the type of legal ownership; (G) A statement signed by the applicant that: (1) Attests to the  
36 accuracy of the information provided in the application, and (2) Affirms that the applicant  
37 will: (a) Comply with this Code, and (b) Allow the Regulatory Authority access to the Food  
38 Establishment as specified under § 8-402.11 and to the records specified under §§ 3-203.12  
39 and 5-205.13 and Subparagraph 8-201.14(D)(6); and (H) Other information required by the  
40 Regulatory Authority.

41 **(q)** 8-303.20 Existing Establishments, Permit Renewal, and Change of  
42 Ownership. (A) The Regulatory Authority may renew a permit for an existing Food  
43 Establishment upon submission of a renewal form provided by the Regulatory Authority and  
44 the required fee(s) as specified in paragraph 8-303.15 (A) prior to the expiration date of the  
45 permit. Permit renewals that are not submitted before the expiration date shall be assessed a  
46 late fee as specified in paragraph 8-303.15 (B), regardless of whether a permit fee is required.

(B) The Regulatory Authority may issue a permit to a new owner of an existing Food Establishment, Mobile Food Establishment, Servicing Area, or Food Processing Plant upon completion of requirements as specified in § 8-201.11 and § 8-302.11 and an inspection shows it is in compliance with this Code.

(r) 8-401.10 Establishing Inspection Interval. (A) Except as specified in paragraph (B) of this section, the Regulatory Authority shall inspect a Food Establishment, Mobile Food Establishment, Food Processing Plant, or Home-based Food Processing Operation at least annually to determine compliance with the Food Service Sanitation Act, the New Mexico Food Act, and this Code.. (B) The Regulatory Authority may periodically inspect throughout its permit period a Temporary Food Establishment that prepares, sells, or serves unpackaged time/temperature control for safety food and that: (1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or (2) Has inexperienced food employees. (C) When an inspection conducted under Paragraph (A) of this section reveals a violation, or repeat violation of Priority Items or Priority Foundation Items of this Code and a re-inspection is scheduled by the Regulatory Authority, a \$100 re-inspection penalty fee shall be assessed by the Regulatory Authority and paid by the Operator.

(s) 8-401.20 Performance-and Risk-Based. The Food Establishment shall prioritize, and conduct more frequent inspections based upon its assessment of a Food Establishment history of compliance with this Code and the Establishment's potential as a vector of foodborne illness by evaluating: (A) Past performance, for nonconformance with Code or HACCP Plan requirements that are priority items or priority foundation items; (B) Past performance, for numerous or repeat violations of Code or HACCP Plan requirements that are core items; (C) Past performance, for complaints investigated and found to be valid; (D) The hazards associated with the particular foods that are prepared, stored, or served; (E) The type of operation including the methods and extent of food storage, preparation, and service; (F) The number of people served; and (G) Whether the population served is a highly susceptible population.

(t) 8-402.20 Refusal, Notification of Right to Access, and Final Request for Access. If a person denies access to the Regulatory Authority, the Regulatory Authority shall: (A) Inform the person that: (1) The permit holder is required to allow access to the Regulatory Authority as specified under section 8-402.11 of this Code, (2) Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under paragraph 8-304.11(F), and (3) If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to Law, and (4) Refusal to allow access is grounds for immediate permit suspension or revocation; and (B) Make a final request for access.

(u) 8-403.30 Refusal to Sign Acknowledgment. At the conclusion of the inspection and according to law, the Regulatory Authority shall provide a copy of the completed inspection report and the notice to correct violations to the permit holder or to the person in charge, and request a signed acknowledgment of receipt.

(2) Omissions. The following provisions of the Food Code are omitted in 7.6.2 NMAC:

(a) 8 - 7 Authority (b) 8-902.10 Gaining Access to Premises and Records

(b) 8-902.20 Content of Inspection Order

- (c) 8-904.40 Time Frame for Re-inspection
- (d) 8-905.30 Provided Upon Request
- (e) 8-905.40 Provided in Accordance with Law
- (f) 8-905.50 Timeliness, Appeal Proceeding Within 5 Business Days,  
Other Proceeding Within 30 Calendar Days
- (g) 8-905.70 Proceeding Commences Upon Notification
- (h) 8-905.80 Procedure, Expeditious and Impartial
- (i) 8-905.90 Confidential
- (j) 8-906.10 Appointment by Regulatory Authority and Purpose
- (k) 8-906.20 Qualifications
- (l) 8-906.30 Powers, Administration of Hearings
- (m) 8-906.40 Powers, Administrative Remedies
- (n) 8-909.20 Contents of Court Petition
- (o) 8-909.30 Sworn Statement of Denied Access
- (p) 8-909-.40 Contents of an Order
- (q) 8-909.50 Optional Contents of an Order
- (r) 8-910.10 Institution of Proceedings
- (s) 8-911.10 Authorities, Methods, Fines, and Sentences
- (t) 8-912.10 Petitions of Injunction
- (u) 8-913.10 Petitions, Penalties, and Continuing Violations

**C. Additional Requirements.** Except as otherwise provided, the following additions are made to the incorporated Food Code Part:

- (1) 8-303.15 Permit fees, late fees, and Expiration dates.
  - (a) Except as specified in iv of this sub-paragraph, permit fees shall be:
    - (i) Two hundred dollars (\$200.00) for Food Establishments, Mobile Food Establishments, Servicing Areas, and Food Processing Plants.
    - (ii) One hundred dollars (\$100.00) for Home-based Food Processing Operations.
    - (iii) Twenty five dollars (\$25.00) for Temporary Food Establishments for each single event or celebration.
    - (iv) Permit fees shall be waived for Food Establishments, Mobile Food Establishments, and temporary events that provide food to consumers at no charge, as well as Temporary Food Establishments that serve only non-TCS food and operate no more than 2 days in a calendar month.
  - (b) In addition to the permit fees specified in Sub-paragraphs (a)(i)-(ii) of this paragraph, a twenty-five dollar (\$25) late fee shall be added to the permit fee if the permit is not renewed within fourteen (14) days after expiration of the permit.
  - (c) If a Permit is not renewed as specified in paragraphs (a) and (b), a new permit shall not be issued except upon completion of requirements specified in section 8-303.10.
  - (d) Permits issued by the Regulatory Authority shall include an expiration date, which shall be:
    - (i) The last day of the anniversary month of the date of original

1 issue for food establishments, mobile food establishments, servicing areas, and food  
2 processing plants.

3 (ii) The last day of the single event or celebration for Temporary  
4 Food Establishments.

5 (e) No discount or refund shall be made for partial years or for permit  
6 suspension or revocation.

7 **(2) 8-407.11 Posting of Compliance Emblems.**

8 (a) Except as specified in paragraph (e) of this subparagraph, an emblem  
9 indicating the compliance status of a food establishment shall be posted in a conspicuous  
10 place at each entrance to the food establishment where it can be easily seen by consumers and  
11 shall be posted or removed only by the Food Establishment.

12 (b) An “approved” emblem shall be posted at a Food Establishment that  
13 is operated in compliance with this Code.

14 (c) An “Unsatisfactory” emblem may be posted at a Food Establishment  
15 when any priority items are out of compliance during an inspection; or any priority item,  
16 priority foundation item, or core item is out of compliance on a repeated basis within the last  
17 25 months.

18 (d) Removal, defacing, or obstruction of an emblem by any person other  
19 than the food establishment shall result in immediate permit suspension or revocation.

20 (e) Food Processing Plants and Temporary Food Establishments are  
21 exempt from the posting of compliance emblems.

22 **(3) 2-104.11 Food Handler Cards.**

23 (a) Except as specified in subparagraphs (b) and (g) of this paragraph,  
24 Food employees shall demonstrate their knowledge of safe food handling practices through  
25 passing a test with a minimum score of seventy-five percent (75%) from a Food Handler  
26 Training Program and possess a valid Food Handler Card to work in a Food Establishment,  
27 Food Processing Plant, Temporary Food Establishment, or Mobile Food Establishment.

28 (b) Except as specified in subparagraph (g) of this paragraph, individuals  
29 who do not possess a valid food handler card prior to employment as a food employee shall  
30 obtain such card within thirty (30) calendar days from the beginning of employment.

31 (c) Food Handler Cards shall be kept by the food employee on his or her  
32 person while working at a Food Establishment or a copy kept on file by the current employer  
33 and be made available for inspection by the Regulatory Authority.

34 (d) The Regulatory Authority may approve a company’s training  
35 program to be used in lieu of requiring a Food Handler Card of its food employees. A Food  
36 employee must complete the company’s approved training program at least every three years.  
37 This exemption is only valid during the Food employees’ time of employment with the  
38 company that administered the training.

39 (e) An employee or Person in charge at any Food Establishment, Food  
40 Processing Plant, Temporary Food Establishment, or Mobile Food Establishment must  
41 provide information or training regarding pertinent safe food handling practices to food  
42 employees prior to beginning food handling duties, if the Food employee does not hold a valid  
43 Food Handler Card.

44 (f) Food Handler Cards shall be valid for three years from the date of  
45 issuance.

46 (g) This paragraph does not apply to:

- 1 (i) Employees who comply with Sections 2-102.12 and 2-102.20;  
2 (ii) Food employees who comply with Paragraph (B) of this  
3 section;  
4 (iii) Food employees of temporary food establishments or  
5 volunteers working as food employees for charitable organizations serving the needy,  
6 provided that at a minimum the person in charge each shift or during hours of operation  
7 complies with Sections 2-102.12 and 2-102.20 or has a valid Food Handler Card obtained  
8 prior to the event; or  
9 (iv) Employees who do not function as Food Employees.  
10 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]  
11

#### 12 **7.6.2.9 MOBILE FOOD ESTABLISHMENT REQUIREMENTS:**

13 **A.** In addition to meeting the applicable requirements of Chapters 1-8 of the Food  
14 Code, with the exception of Section 5-203.12 of the Food Code, Mobile Food Establishments  
15 shall comply with the requirements specified in this Section.

16 **B.** The Regulatory Authority may impose additional requirements for Mobile Food  
17 Establishments as specified in Section 8-102.10 of the Food Code. Additional requirements  
18 may include, but are not limited to:

19 (1) Limiting or restricting the number and type of Food items to be prepared and  
20 served.

21 (2) Limiting or restricting preparation steps.

22 (3) Limiting or restricting hours of operation, or hours of operation before  
23 returning to a Servicing Area.

24 (4) Require a Servicing Area or Mobile Support Unit.

25 **C.** The Regulatory Authority may modify or waive requirements for Mobile Food  
26 Establishments as specified in Sections 8-103.10 and 8-103.11 of the Food Code.

27 **D.** Mobile Food Establishments shall provide the following required information as  
28 specified in ¶ 8-201.12(F):

29 (1) The location of the potable water source;

30 (2) The location and method of solid and liquid waste disposal; and

31 (3) The identifying system used to distinguish the permitted unit from others.

32 **E.** Mobile Food Establishments shall have adequate electrical and/or fuel capacity,  
33 as determined by the Regulatory Authority, to allow proper operation of equipment. The  
34 electrical and/or fuel source shall be adequately supplied at all times when Food temperature  
35 control is required.

36 **F.** Mobile Food Establishments shall be operated within 200 feet of toilet facilities  
37 as specified in Sections 5-203.12 and 5-203.11 of the Food Code whenever the unit is stopped  
38 to operate for more than a two (2) hour period.

39 **G.** The operation of Mobile Food Establishments shall be conducted within the  
40 enclosure of the permitted unit. During a single event or celebration, certain operations (e.g.,  
41 additional covered storage, additional food preparation area, outdoor serving counter) may be

1 conducted outside of the enclosure, when Approved. If Approved, an additional Temporary  
2 Food Establishment Permit shall be required.

3 **H.** Mobile Food Establishments shall provide only single-service articles for use by  
4 consumers.

5 **I.** Self-contained Mobile Food Establishment Requirements. Self-contained  
6 Mobile Food Establishments shall:

7 (1) Meet all of the equipment requirements of this Code;

8 (2) Include adequate storage facilities on the unit for all Food, equipment,  
9 utensils, supplies, potable water, and waste water used in the operation of the unit;

10 (3) Be capable of accomplishing all steps of the operation, including required  
11 Food preparation and warewashing, within the enclosure of the unit;

12 (4) Provide, as specified in Paragraph 8-201.12(F) of the Food Code, how and  
13 where the unit will be cleaned and serviced and where it will be stored during non-operating  
14 hours; and

15 (5) Notify the Regulatory Authority office of jurisdiction at least 24 hours in  
16 advance before operating in a jurisdictional area outside of the Permitting office.

17 **J.** Non Self-contained Mobile Unit and Pushcart Requirements.

18 (1) Non Self-contained Mobile Units and Pushcarts shall:

19 (a) Provide, as specified in Paragraph 8-201.12(F) of the Food Code, an  
20 agreement between the operator and the Servicing Area that includes:

21 (i) The days and hours the Servicing Area will be used,

22 (ii) The extent of support services to be provided, and

23 (iii) A copy of the current Servicing Area Permit.

24 (2) Prior to discontinuing use of a Servicing Area, the operator shall provide a  
25 revised agreement as specified in Paragraph (1) above for a new Servicing Area. Mobile Food  
26 Establishments shall not operate prior to the approval of a new Servicing Area.

27 (3) Operate within a reasonable distance, and report at least daily, to the  
28 Servicing Area for support services.

29 (4) Notify the Regulatory Authority in writing and receive prior approval to  
30 operate outside of a reasonable distance of the Servicing Area.

31 **K.** Additional Pushcart Requirements:

32 (1) Pushcarts are limited to:

33 (a) Serving non-TCS Foods or drinks

34 (b) Serving individually commercially packaged TCS foods in the  
35 original packaging and maintained at proper temperatures, and

36 (c) Assembling and serving of pre-cooked sausage (e.g., hot dog,  
37 bratwurst, frankfurter) with commercially prepared toppings (e.g., chili, sauerkraut, relish).

38 (2) Pre-preparation, such as washing, slicing, peeling, cutting of food intended  
39 for use on a pushcart, shall occur at the Servicing Area.

40 (3) Food handling shall be conducted under an overhead protective cover.

- 1                   (4) Grills shall include a protective lid that can be readily closed.
- 2                   (5) Operators of Pushcarts shall ensure the following are contained on, or within,
- 3 the cart in sufficient supply for daily operation:
- 4                   (a) Food, utensils, single service items, and cleaning supplies;
- 5                   (b) Handwashing sink as specified in Section 5-202.12 of the Food Code
- 6 with a minimum of 5 gallons of potable water; and
- 7                   (c) Wastewater holding tank meeting the requirements of Section 5-
- 8 401.11 of the Food Code.
- 9                   (6) TCS Food served on Pushcarts shall not be subsequently cooled and
- 10 reheated.
- 11                   (7) Ice chests may be utilized for packaged food provided that they are
- 12 continuously drained in an Approved manner and the food is maintained at temperatures as
- 13 specified in Section 3-202.11 of the Food Code.

14 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

15

16 **7.6.2.10 TEMPORARY FOOD ESTABLISHMENT REQUIREMENTS:**

17           **A.** In addition to meeting the applicable requirements of Chapters 1-8 of the Food

18 Code, with the exception of Section 5-203.12, Temporary Food Establishments shall comply

19 with the requirements specified in this Section.

20           **B.** The Regulatory Authority may impose additional requirements for Temporary

21 Food Establishments as specified in Section 8-102.10 of the Food Code. Requirements may

22 include, but are not limited to:

- 23                   (1) Require food safety training for employees prior to issuing a Permit;
- 24                   (2) Restrict the number and type of Food items to be prepared and served;
- 25                   (3) Restrict preparation steps;
- 26                   (4) Restrict hours of operation;
- 27                   (5) Require a Servicing Area for advanced preparation of Food.

28           **C.** The Regulatory Authority may modify or waive requirements for Temporary

29 Food Establishments as specified in Sections 8-103.10 and 8-103.11 of the Food Code.

30           **D.** Temporary food establishments shall:

- 31                   (1) Serve only Food that has been Approved.
- 32                   (2) Conduct all Food operations within the Approved enclosure. Temporary
- 33 Food Establishments may, after approval, store and/or prepare Food at an offsite Food
- 34 Establishment prior to operation when:

35                   (a) The Food Establishment has adequate equipment for the type and

36 volume of Food and preparation steps required; and

37                   (b) The Temporary Food Establishment operator provides to the

38 Regulatory Authority a letter of agreement between the operator and the Food Establishment

39 that includes:

- 40                           (i) The days and hours the Food Establishments will be used,

- 1 (ii) A list of tasks that will be performed at the Food  
2 Establishments; and
- 3 (iii) A copy of the current Food Establishment Permit.
- 4 (3) Provide, in writing, to the Regulatory Authority for approval the:
- 5 (a) Location of the approved potable water source,
- 6 (b) Location and method of solid waste disposal; and
- 7 (c) Location and method of liquid waste disposal.
- 8 (4) Supply a handwashing sink, located as specified in Section 5-204.11 of the  
9 Food Code, for employee hand washing. At a minimum, a handwashing sink shall consist of a  
10 container with a faucet-type spigot filled with warm water and a catch bucket for the  
11 wastewater. The water shall be maintained at a minimum of 100°F as specified in Section 5-  
12 202.12 of the Food Code.
- 13 (5) Maintain an adequate supply of liquid soap and single use paper towels at  
14 the handwashing sink at all times.
- 15 (6) Provide a warewashing station as specified in Section 4-301.12 of the Food  
16 Code. Extra utensils may be Approved in lieu of a warewashing station as specified in Chart  
17 10-1.
- 18 (7) Maintain an adequate supply of potable water at all times during operation  
19 for tasks such as: handwashing; Food preparation; and washing, rinsing, and sanitizing of  
20 surfaces, utensils, and equipment. Except as specified in Chart 10-1, auxiliary heating units  
21 capable of producing an adequate supply of hot water for such purposes shall be provided.
- 22 (8) Provide an adequate supply of ice, as necessary, to maintain  
23 time/temperature control for safety food at temperatures as specified in Sub-paragraph 3-  
24 501.16(A)(2) of the Food Code.
- 25 (9) Not store packaged food in undrained ice or iced water, except for  
26 pressurized containers of non- time/temperature control for safety beverages. The water or ice  
27 shall contain at least 10 ppm of available chlorine and shall be changed as necessary to keep the  
28 water and container clean. Ice used to store food shall not be used as food.
- 29 (10) Not store raw meat, poultry, fish, or eggs in the same ice chests as ready-  
30 to-eat Food when ice chests are approved for use to store Food as specified in Chart 10-1.
- 31 (11) Transport Food at temperatures as specified in Section 3-501.16 of the  
32 Food Code and protect Food from contamination as specified in Part 3-3.
- 33 (12) Not carry over previously heated or cooked Food from one day to the next.  
34 This requirement may be waived for Type 3 Temporary Food Establishments (as identified in  
35 Chart 10-1) or for Food prepared in advance at an offsite Food Establishment.
- 36 (13) Operate on a surface that is smooth, easily cleanable, and nonabsorbent  
37 (e.g., concrete, machine laid asphalt). Grass may be approved as specified in Chart 10-1;
- 38 (14) Operate under a weather-resistant covering that is smooth, easily cleanable  
39 and nonabsorbent to protect the operation from overhead contamination;



(15) Be constructed in a manner that prevents the entrance of insects or other vermin and adequately protects Food from consumers and environmental contamination;

(16) Provide separation (e.g. table) to keep consumers from entering the Food operation;

(17) Provide walls that are smooth, easily cleanable, and nonabsorbent. This requirement may be waived when flying insects and other pests are absent due to location, weather, or other limiting conditions. Except as specified in Chart 10-1, walls shall meet the following requirements:

(a) Cover tightly from ceiling to floor,

(b) Use an approved counter-serving opening with tight fitting screened doors or air curtain. Counter-serving openings shall be kept closed, except when in use; and

(c) When Approved for use, screening shall be 16 mesh to 1 inch.

(18) In conjunction with the requirements specified in this section, a Temporary Food Establishment shall, based upon risk, be classified as a Type 1, 2 or 3 Temporary Food Establishment and meet the corresponding requirements specified in Chart 10-1.

**Chart 10-1**

	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>
Menu	<ul style="list-style-type: none"> <li>Unpackaged non-TCS</li> <li>Commercially processed packaged TCS in original package (receive-store-hold)</li> </ul>	<ul style="list-style-type: none"> <li>No Cook (receive-store-minimum prep*-hold-serve)</li> <li>Same Day Prep (receive-store-minimum prep*-cook-hold-serve)</li> <li>Reheat Commercially Processed (receive-store-reheat-hold-serve)</li> </ul>	<ul style="list-style-type: none"> <li>Complex Food Prep (receive-store-prep-cook-cool-reheat-hot hold-serve)</li> <li>Serving Highly Susceptible Population</li> </ul>
Handwashing	Gravity Fed <ul style="list-style-type: none"> <li>&lt;= 4 hrs – insulated container or auxiliary heating source</li> <li>&gt; 4 hrs – auxiliary heating source</li> </ul>	Same as Type 1	Hot & cold running water under pressure
3-Compartment Sink	Unpackaged non-TCS <ul style="list-style-type: none"> <li>&lt;= 4 hrs – 3-comp or extra utensils</li> <li>&gt; 4 hrs – 3-comp required</li> </ul> Packaged TCS: not required	Same as Type 1 unpackaged non-TCS	3-comp required w/ hot & cold running water under pressure

Refrigeration	Unpackaged non-TCS: not required Packaged TCS: <ul style="list-style-type: none"> <li>• &lt;= 1 day – insulated ice chest w/drained ice</li> <li>• 2-3 days – mechanical equipment</li> <li>• &gt; 3 days – mechanical ANSI equipment only</li> </ul>	Same as Type 1 packaged TCS	Mechanical ANSI equipment only
Cold Holding (e.g., prep table, display case)	Unpackaged non-TCS: not required Packaged TCS: <ul style="list-style-type: none"> <li>• Ice bath</li> <li>• 2-3 days – mechanical equipment recommended</li> <li>• &gt; 3 days – mechanical ANSI equipment recommended</li> </ul>	Same as Type 1 packaged TCS	Same as Type 1 packaged TCS
Hot Holding	Not allowed	Covered non-ANSI equipment allowed**	Covered ANSI equipment only
Cooking/ Reheating	Not allowed	Covered non-ANSI equipment allowed**	Covered ANSI equipment only
Flooring	Grass; smooth, durable, easily cleanable such as: concrete, machine-laid asphalt, sealed wood, tile, impermeable tarp	<ul style="list-style-type: none"> <li>• &lt;= 2 days – same as Type 1</li> <li>• &gt; 2 days – same as Type 1, no grass</li> </ul>	<ul style="list-style-type: none"> <li>• &lt;= 3 days – same as Type 1, no grass</li> <li>• &gt; 3 days – constructed flooring</li> </ul>
Walls	Unpackaged non-TCS <ul style="list-style-type: none"> <li>• &lt;= 3 days – no sides, ability to cover solid</li> <li>• &gt; 3 days – 3.5 side screening, ability to cover solid</li> </ul> Packaged TCS: not required	<ul style="list-style-type: none"> <li>• &lt;= 1 day – no sides, ability to cover solid</li> <li>• 1 to 3 days – 3.5 side screening, ability to cover solid</li> <li>• &gt; 3 days – complete enclosure w/approved opening</li> </ul>	Complete enclosure w/approved opening
Training	As required by REGULATORY AUTHORITY	As required by REGULATORY AUTHORITY	Certified FOOD protection manager required

1 \*Minimum preparation includes activities such as: slicing/cutting fruits and vegetables, opening  
2 commercially packaged TCS Foods, and seasoning TCS Foods. Minimum preparation does not  
3 include activities such as: cutting, slicing, or forming raw meat, poultry, or fish; assembly of  
4 complex menu items.

5 \*\*Chafing dishes may be allowed for events of 4 hours or less. Insulated ice chests and slow  
6 cookers are not allowed for hot holding. Slow cookers are not allowed for heating, cooking, or  
7 reheating.

8 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

1     **7.6.2.11       MANUFACTURED FOOD REQUIREMENTS:**

2             **A.       General Requirements.**

3                 **(1)**    A person may not operate a Food Processing Plant without a valid Permit to  
4     operate issued by the Regulatory Authority.

5                 **(2)**    In addition to meeting the applicable requirements of Chapters 1-8 of the  
6     Food Code, including the permitting and plan review requirements, Food Processing Plants  
7     shall comply with the requirements specified in this section.

8                 **(3)**    Information submitted by Food Processing Plants shall be handled by the  
9     Regulatory Authority in accordance with Section 8-202.10 of the Food Code.

10                **(4)**    The Regulatory Authority may impose additional requirements for Food  
11    Processing Plants as specified in Section 8-102.10 of the Food Code, or may modify or waive  
12    requirements for Food Processing Plants as specified in Sections 8-103.10 and 8-103.11 of the  
13    Food Code.

14                **(5)**    The Regulatory Authority may require that a Food Processing Plant's  
15    processes be reviewed by a competent Process Authority to approve critical factors of public  
16    health significance, including, but not limited to, Verification of proposed Critical Control  
17    Points and Critical Limits.

18                **(6)**    Food Processing Plants shall design and use a coding system that will  
19    identify the date and place of manufacture of each product. The code shall be printed on, or  
20    securely affixed to, the body of each product container or label. The code shall not be affixed  
21    to the lid of a container.

22                **(7)**    Food Processing Plants shall prepare written Recall procedures and maintain  
23    them on file at the Premises. The recall procedures shall include:

24                    **(a)**   Procedures for identifying, and subsequently verifying, products  
25    which may be injurious to human health;

26                    **(b)**   A plan for recalling products which may be injurious to human health,  
27    including alerting consumers and businesses, collecting, warehousing, and rework or disposal  
28    of products;

29                    **(c)**   A method of determining the effectiveness of Recalls; and

30                    **(d)**   A list of governmental agencies, including the Regulatory Authority,  
31    that will be notified concerning recalls.

32                **(8)**    If it is determined that a Food product will be Recalled for any reason, the  
33    Food Processing Plant shall notify the Regulatory Authority within twenty-four (24) hours.

34                **(9)**    Food that is produced without meeting the requirements specified in this  
35    section shall be deemed Adulterated and/or Misbranded.

36                **(10)**   Food that is suspected of being Adulterated and/or Misbranded shall not be  
37    distributed until a determination of the product's safety is made and Approved.

38                **(11)**   If Food suspected of being Adulterated and/or Misbranded has been  
39    distributed, the Regulatory Authority shall give the Food Processing Plant the opportunity to  
40    voluntarily Recall the product at their expense.

1           (12) If the Food Processing Plant refuses to conduct a voluntary Recall, the  
2 Regulatory Authority may order a mandatory Recall of the suspected product at the expense of  
3 the Food Processing Plant.

4           (13) When a product is found to be Adulterated, the Regulatory Authority may  
5 order the disposal or rework of the product at the expense of the Food Processing Plant.  
6 Product rework shall be approved by the Regulatory Authority.

7           (14) When a product is found to be Misbranded, the Food Processing Plant shall  
8 submit to the Regulatory Authority for Approval a plan to correct the Misbranding and  
9 implement the plan after Approval.

10           **B. Establishment and Process Registration Requirements.**

11           (1) Food Processing Plants shall meet the applicable establishment registration  
12 requirements of the Public Health Security and Bioterrorism Preparedness and Response Act of  
13 2002 and the Food and Drug Administration Food Safety Modernization Act.

14           (2) Food Processing Plants that produce Acidified Food or Low Acid Food shall  
15 meet the applicable establishment registration and process filing requirements of Title 21, Code  
16 of Federal Regulations, Part 108.

17           (3) Food Processing Plants that produce Acidified Food or Low Acid Food shall  
18 meet the applicable training requirements of Title 21, Code of Federal Regulations, Parts 113  
19 and 114.

20           (4) Food Processing Plants that produce Meat or Poultry products shall meet the  
21 applicable licensing and inspection requirements of Title 9, Code of Federal Regulations, Part  
22 300.

23           **C. Standards of Identity Requirements.**

24           (1) Any Food that is represented as, or purports to be, a Food for which a  
25 standard of identity has been promulgated, must comply with the specifications of the standard  
26 as published in Title 21, Code of Federal Regulations, Parts 103 – 169.

27           (2) A Food product that does not comply fully with the applicable standard shall  
28 be deemed Misbranded.

29           **D. Adoption of Certain Parts of Code of Federal Regulations Title 21.**

30           (1) The following parts of Title 21, Code of Federal Regulations, are hereby  
31 adopted as a technical reference and interpretation guide for the following Food types and  
32 processes:

33                   (a) Acidified food: Title 21, Code of Federal Regulations, Part 113;

34                   (b) Low-acid canned Food: Title 21, Code of Federal Regulations, Part  
35 114;

36                   (c) Juice: Title 21, Code of Federal Regulations, Part 120;

37                   (d) Bottled Drinking Water: Title 21, Code of Federal Regulations, Parts  
38 129;

39                   (e) Fish and fisheries products: Title 21, Code of Federal Regulations,  
40 Part 123; and

1 (f) Current Good Manufacturing Practice: Title 21, Code of Federal  
2 Regulations, Part 110.110.

3 **E. Operational Plan Requirements.**

4 (1) Food Processing Plants shall submit to the Regulatory Authority for  
5 approved an operational plan for each product to be manufactured. Food products or types of  
6 production methods may be grouped together, if the Food Hazard, Critical Control Points,  
7 Critical Limits, and procedures required are essentially identical. The grouping of operational  
8 plans together shall be approved by the Regulatory Authority.

9 (2) Prior to manufacturing new products or changing the manufacturing process  
10 for existing products, Food Processing Plants shall obtain Approval of Operational Plans.

11 (3) Operational plans shall be kept on the premises of the Food Processing  
12 Plants and be available for review by the Regulatory Authority.

13 (4) Food Processing Plants shall not deviate from Operational Plans without  
14 Approval.

15 (5) Operational Plans shall contain the following information, as applicable, for  
16 each product:

17 (a) Names and amounts of ingredients, including Sub-ingredients, listed  
18 in descending order based upon predominance of weight;

19 (b) Final product pH. The Regulatory Authority may require the pH for  
20 initial ingredients to determine whether a product is an Acid Food, formulated acid food, or  
21 Acidified Food;

22 (c) Final product Water Activity (aw);

23 (d) Name(s) of preservative(s) added;

24 (e) Description of the type of packaging to be used. If the packaging is  
25 integral to product stability further information regarding the packaging may be required by the  
26 Regulatory Authority;

27 (f) A written operational procedure, including a flow chart, illustrating  
28 product formulation beginning with receiving incoming ingredients and continuing to final  
29 product distribution. Critical Control Points and Critical Limits shall be identified in the written  
30 procedure and flow chart;

31 (g) Distribution information, including:

32 (i) Intended distribution;

33 (ii) Temperature requirements during distribution; and

34 (iii) Mishandling possibilities during distribution or by consumers.

35 (h) Expected shelf-life of the product. The Regulatory Authority may  
36 require a shelf-life study to be conducted by an Approved process authority.

37 (i) Detailed instructions concerning preparation requirements for  
38 consumers.

39 (j) Recall procedures as specified in Sub-section A, Paragraph 7 of this  
40 section.

1                   (k) Detailed description of the proposed product coding system,  
2 including how it will be affixed to the product as specified in Sub-section A, Paragraph 6 of  
3 this section.

4                   (l) A HACCP Plan.

5                   (m) A proposed label for each product.

6                   (n) Sanitation Standard Operating Procedures (SSOPs).

7           **F. Good Manufacturing Practices.**

8                   (1) Food Processing Plants shall meet the specifications of Part 2-1 of the Food  
9 Code.

10                   (2) Food Processing Plants shall meet the employee health specifications of Part  
11 2-2 of the Food Code.

12           **G. Plant and Grounds.**

13                   (1) Grounds. The grounds under the control of the food processing plant shall be  
14 kept in a condition that will protect against the contamination of food. The methods for  
15 adequate maintenance of grounds include, but are not limited to:

16                           (a) Properly storing equipment, removing litter and waste, and cutting  
17 weeds or grass within the immediate vicinity of the plant buildings or structures that may  
18 constitute an attractant, breeding place, or harborage for pests;

19                           (b) Maintaining roads, yards, and parking lots so that they do not  
20 constitute a source of contamination;

21                           (c) Adequately draining areas that may contribute contamination to food  
22 by seepage, foot-borne filth, or providing a breeding place for pests; and

23                           (d) Operating systems for waste treatment and disposal as specified in  
24 20.7.3 NMAC or 20.6.2 NMAC.

25                   (2) If the Plant grounds are bordered by grounds not under the Food Processing  
26 Plant's control and not maintained in the manner described in Sub-section G, Paragraph 1 of  
27 this section, care shall be exercised in the plant by inspection, extermination, or other means to  
28 exclude pests, dirt, and filth that may be a source of Food contamination.

29                   (3) Food Processing Plant construction and design. Food Processing Plant  
30 buildings and structures shall be suitable in size, construction, and design to facilitate  
31 maintenance and sanitary operations for food-manufacturing purposes. The Food Processing  
32 Plant and facilities shall:

33                           (a) Provide sufficient space for such placement of equipment and storage  
34 of materials as is necessary for the maintenance of sanitary operations and the production of  
35 safe food.

36                           (b) Permit the taking of proper precautions to reduce the potential for  
37 contamination of Food, food-contact surfaces, or Food packaging materials with  
38 microorganisms, chemicals, filth, or other extraneous material. The potential for contamination  
39 may be reduced by adequate Food safety controls and operating practices or effective design,  
40 including the separation of operations in which contamination is likely to occur, by one or more

1 of the following means: location, time, partition, air flow, enclosed systems, or other effective  
2 means.

3 (c) Permit the taking of proper precautions to protect Food in outdoor bulk  
4 vessels by any effective means, including:

- 5 (i) Using protective coverings;
- 6 (ii) Controlling areas over and around the vessels to eliminate  
7 harborages for pests; and
- 8 (iii) Checking on a regular basis for pests and pest infestation.

9 (d) Be constructed in such a manner that floors, walls, and ceilings may  
10 be adequately cleaned and kept clean and kept in good repair; that drip or condensate from  
11 fixtures, ducts and pipes does not contaminate Food, food-contact surfaces, or food-packaging  
12 materials; and that aisles or working spaces are provided between equipment and walls and are  
13 adequately unobstructed and of adequate width to permit employees to perform their duties and  
14 to protect against contaminating Food or food-contact surfaces with clothing or personal  
15 contact.

16 (e) Provide adequate lighting as specified in Section 6-303 of the Food  
17 Code and provide protection against Food contamination in case of glass breakage (including,  
18 but not limited to light bulbs, fixtures, skylights, or other glass suspended above exposed food)  
19 as specified in Section 6-202.11 of the Food Code.

20 (f) Provide adequate ventilation as specified in Section 6-304.11 of the  
21 Food Code and locate and operate fans and other air-blowing equipment in a manner that  
22 minimizes the potential for contaminating Food, food-packaging materials, and food-contact  
23 surfaces as specified in Section 6-202.12 of the Food Code.

24 (g) Provide, where necessary, adequate screening or other protection  
25 against pests as specified in Sections 6-202.13 & 6-202.15 of the Food Code.

#### 26 **H. Sanitary Operations.**

27 (1) General maintenance. Buildings, fixtures, and other physical facilities of the  
28 food processing plant shall be maintained in a sanitary condition and shall be kept in repair  
29 sufficient to prevent food from becoming adulterated. Cleaning and sanitizing of utensils and  
30 equipment shall be conducted in a manner that protects against contamination of food, food-  
31 contact surfaces, or food-packaging materials.

32 (2) Substances used in cleaning and sanitizing; storage of toxic materials.  
33 Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be  
34 free from undesirable microorganisms and shall be safe and adequate under the conditions of  
35 use as specified in Chapter 7 of the Food Code. Compliance with this requirement may be  
36 verified by any effective means including purchase of these substances under a supplier's  
37 guarantee or certification, or examination of these substances for contamination.

38 (3) Pest control. The premises shall be maintained free of insects, rodents, and  
39 other pests as specified in Sections 6-501.111 & 6-501.112 of the Food Code.

1           (4) Guard or guide dogs may be allowed in some areas of a plant if the presence  
2 of the dogs is unlikely to result in contamination of Food, food-contact surfaces, or food-  
3 packaging materials.

4           (5) Sanitation of food-contact surfaces. All food-contact surfaces, including  
5 utensils and food-contact surfaces of equipment, shall be cleaned as frequently as necessary to  
6 protect against contamination of food as specified in Sections 4-601.11 and 4-602.11 and Part  
7 4-7 of the Food Code. Food-contact surfaces used for manufacturing or holding low-moisture  
8 food shall be in a dry, sanitary condition at the time of use. When the surfaces are wet-cleaned,  
9 they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

10          (6) Storage and handling of cleaned equipment and utensils and food-packaging  
11 materials. Cleaned and sanitized equipment and food-packaging materials shall be stored as  
12 specified in Section 4-903.11 of the Food Code.

13          **I. Equipment and Utensils.** In addition to the equipment specifications in Chapter  
14 4 of the Food Code, Instruments and controls used for measuring, regulating, or recording  
15 temperatures, pH, acidity, Water Activity, or other conditions that control or prevent the growth  
16 of undesirable microorganisms in Food shall be accurate and adequately maintained, and  
17 adequate in number for their designated uses.

18          **J. Processes and Controls.** All operations in the receiving, inspecting,  
19 transporting, segregating, preparing, manufacturing, packaging, and storing of Food shall be  
20 conducted in accordance with adequate sanitation principles. Appropriate quality control  
21 operations shall be employed to ensure that Food is suitable for human consumption and that  
22 food-packaging materials are safe and suitable. Overall sanitation of the plant shall be under the  
23 supervision of one or more competent individuals assigned responsibility for this function. All  
24 reasonable precautions shall be taken to ensure that production procedures do not contribute  
25 contamination from any source. Chemical, microbial, or extraneous-material testing procedures  
26 shall be used where necessary to identify sanitation failures or possible Food contamination.  
27 All Food that has become contaminated to the extent that it is Adulterated within the meaning  
28 of the Act shall be rejected, or if permissible, treated or processed to eliminate the  
29 contamination.

30          **(1) Raw materials and other ingredients.**

31               **(a)** Raw materials and other ingredients shall be inspected and segregated  
32 or otherwise handled as necessary to ascertain that they are clean and suitable for processing  
33 into Food and shall be stored under conditions that will protect against contamination and  
34 minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil  
35 or other contamination. Water used for washing, rinsing, or conveying Food shall be safe and  
36 of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying Food if it  
37 does not increase the level of contamination of the Food. Containers and carriers of raw  
38 materials should be inspected on receipt to ensure that their condition has not contributed to the  
39 contamination or deterioration of Food.



1                   **(b)** Raw materials and other ingredients shall either not contain levels of  
2 microorganisms that may produce Food poisoning or other disease in humans, or they shall be  
3 pasteurized or otherwise treated during manufacturing operations so that they no longer contain  
4 levels that would cause the product to be Adulterated. Compliance with this requirement may  
5 be verified by any effective means, including purchasing raw materials and other ingredients  
6 under a supplier's guarantee or certification.

7                   **(c)** Raw materials and other ingredients susceptible to contamination with  
8 aflatoxin or other natural toxins shall comply with applicable requirements of Sub-section D of  
9 this section and action levels for poisonous or deleterious substances before these materials or  
10 ingredients are incorporated into finished Food. Compliance with this requirement may be  
11 accomplished by purchasing raw materials and other ingredients under a supplier's guarantee or  
12 certification, or may be verified by analyzing these materials and ingredients for aflatoxins and  
13 other natural toxins.

14                   **(d)** Raw materials, other ingredients, and rework susceptible to  
15 contamination with pests, undesirable microorganisms, or extraneous material shall comply  
16 with applicable requirements of Sub-section D of this section and defect action levels for  
17 natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing  
18 Food. Compliance with this requirement may be verified by any effective means, including  
19 purchasing the materials under a supplier's guarantee or certification, or examination of these  
20 materials for contamination.

21                   **(e)** Raw materials, other ingredients, and rework shall be held in bulk, or  
22 in containers designed and constructed so as to protect against contamination and shall be held  
23 at such temperature and relative humidity and in such a manner as to prevent the Food from  
24 becoming Adulterated. Material scheduled for rework shall be identified as such.

25                   **(2)** Manufacturing operations.

26                   **(a)** Equipment and utensils and finished food containers shall be  
27 maintained in an acceptable condition through appropriate cleaning and sanitizing, as  
28 necessary. As necessary, equipment shall be taken apart for thorough cleaning.

29                   **(b)** All Food manufacturing, including packaging and storage, shall be  
30 conducted under such conditions and controls as necessary to minimize the potential for the  
31 growth of microorganisms, or for the contamination of Food. Compliance with this requirement  
32 may be accomplished by, but is not limited to: careful monitoring of physical factors such as  
33 time, temperature, humidity, Water Activity, pH, pressure, flow rate, and manufacturing  
34 operations such as freezing, dehydration, heat processing, acidification, and refrigeration to  
35 ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do  
36 not contribute to the decomposition or contamination of Food.

37                   **(c)** Effective measures shall be taken to protect against the inclusion of  
38 metal or other extraneous material in Food. Compliance with this requirement may be  
39 accomplished by, but is not limited to, using sieves, traps, magnets, electronic metal detectors,  
40 or other suitable effective means.

1                   (d) Food, raw materials, and other ingredients that are Adulterated within  
2 the meaning of the act shall be disposed of in a manner that protects against the contamination  
3 of other food. If the Adulterated food is capable of being reconditioned, it shall be  
4 reconditioned using a method that has been proven to be effective or it shall be reexamined and  
5 found not to be adulterated before being incorporated into other Food.

6                   (e) Food such as, but not limited to, dry mixes, nuts, intermediate moisture  
7 Food, and dehydrated Food, that relies on the control of Water Activity for preventing the  
8 growth of undesirable microorganisms shall be processed to and maintained at a safe moisture  
9 level. Finished Food shall be protected from moisture pickup, by use of a moisture barrier or by  
10 other means, so that the Water Activity of the food does not increase to an unsafe level.

11                   (f) Food such as, but not limited to, Acid Food and Acidified Food, that  
12 relies principally on the control of pH for preventing the growth of undesirable microorganisms  
13 shall be monitored and maintained at a pH in accordance with Table A or Table B of the Food  
14 Code. Compliance with this requirement may be accomplished by any effective means,  
15 including monitoring the pH of raw materials, Food in process, and finished Food.

16                   (g) Food-manufacturing areas and equipment used for manufacturing  
17 human Food shall not be used to manufacture nonhuman food-grade animal feed or inedible  
18 products.

19           **K. Warehousing and distribution.** Storage and transportation of finished Food  
20 shall be under conditions that will protect Food against physical, chemical, and microbial  
21 contamination as well as against deterioration of the Food and the container.

22           **L. HACCP requirements.**

23                   (1) Food processing plants shall develop and implement a HACCP System that  
24 meets the specifications of this Section.

25                   (2) HACCP documents shall be kept on the premises of the Food Processing  
26 Plant and be available for review by the Regulatory Authority.

27                   (3) Food processing plants shall not deviate from approved HACCP Plans  
28 without approval from the Regulatory Authority.

29           **M. Hazard Analysis.**

30                   (1) Food processing plants shall develop, or have developed for them, a written  
31 Hazard Analysis to determine whether there are Food Hazards that are reasonably likely to  
32 occur for each type of Food processed and to identify control measures that can apply to control  
33 those Hazards.

34                   (2) The written Hazard Analysis shall consist of at least the following:

35                           (a) Identification of Food hazards.

36                           (b) An evaluation of each Food hazard identified to determine if the  
37 Hazard is reasonably likely to occur and therefore constitutes a Food Hazard that must be  
38 addressed in the HACCP Plan.

39                           (c) Identification of the control measures that the Food Processing Plant  
40 can apply to control the Food Hazards identified as reasonably likely to occur.

1 (d) Review of the current process to determine whether modifications are  
2 necessary.

3 (e) The identification of Critical Control Points.

4 (3) The Hazard Analysis shall include Food Hazards that can be introduced both  
5 within and outside the Food Processing Plant environment, including Food Hazards that can  
6 occur before, during, and after harvest. The Hazard Analysis shall be developed by an  
7 individual or individuals who have been trained in accordance with Sub-section V of this  
8 section and shall be subject to the recordkeeping as specified in Sub-sections R, S, T and U of  
9 this section.

10 (4) In evaluating what Food Hazards are reasonably likely to occur,  
11 consideration should be given, at a minimum, to the following:

12 (a) Microbiological contamination;

13 (b) Parasites;

14 (c) Chemical contamination;

15 (d) Unlawful pesticide residues;

16 (e) Decomposition in Food where a Food Hazard has been associated with  
17 decomposition;

18 (f) Natural toxins;

19 (g) Unapproved use of Food or color additives;

20 (h) Presence of undeclared ingredients that may be allergens; and

21 (i) Physical hazards.

22 (5) Food Processing Plants shall evaluate product ingredients, processing  
23 procedures, packaging, storage, and intended use; facility and equipment function and design;  
24 and Plant sanitation, including employee hygiene, to determine the potential effect of each on  
25 the safety of the finished Food for the intended consumer.

26 **N. Hazard Analysis and Critical Control Point (HACCP) Plan requirements.**

27 (1) Food Processing Plants shall have and implement a written HACCP Plan  
28 whenever a Hazard Analysis reveals one or more Food Hazards that are reasonably likely to  
29 occur during processing as specified in Sub-section M of this section. The HACCP Plan shall  
30 be developed by an individual or individuals who have been trained as specified in Sub-section  
31 V of this section and shall be subject to the recordkeeping requirements as specified in Sub-  
32 sections R, S, T and U of this section. A HACCP plan shall be specific to:

33 (a) Each location where Food is processed.

34 (b) Each type of Food processed. The plan may group types of Food  
35 products together, or group types of production methods together, if the Food Hazards, Critical  
36 Control Points, Critical Limits, and procedures required to be identified and performed in Su-  
37 bsection E Paragraph 1 of this section are essentially identical, provided that any required  
38 features of the plan that are unique to a specific product or method are clearly delineated in the  
39 plan and are observed in practice.

40 (2) The HACCP Plan shall, at a minimum:

1                   **(a)** List all Food Hazards that are reasonably likely to occur and must be  
2 controlled for each product type as identified in accordance with Sub-section M of this section.

3                   **(b)** List the Critical Control Points for each of the identified Food Hazards  
4 that is reasonably likely to occur, including as appropriate:

5                         **(i)** Critical Control Points designed to control Food Hazards that are  
6 reasonably likely to occur and could be introduced inside the Food Processing Plants  
7 environment; and

8                         **(ii)** Critical Control Points designed to control Food Hazards  
9 introduced outside the Food Processing Plants environment, including food hazards that occur  
10 before, during, and after harvest;

11                   **(c)** List the Critical Limits that shall be met at each of the Critical Control  
12 Points;

13                   **(d)** List the procedures, and the frequency with which they are to be  
14 performed, that will be used to monitor each of the Critical Control Points to ensure compliance  
15 with the Critical Limits;

16                   **(e)** Include any Corrective Action plans that have been developed in  
17 accordance with Sub-section M of this section, and that are to be followed in response to  
18 deviations from critical limits at Critical Control Points;

19                   **(f)** List the Validation and Verification procedures, and the frequency with  
20 which they are to be performed, that the Food Processing Plant will use as specified in Sub-  
21 sections O and P of this section; and

22                   **(g)** Provide for a recordkeeping system that documents the monitoring of  
23 the Critical Control Points in accordance with Sub-sections R, S, T, and U of this section. The  
24 records shall contain the actual values and observations obtained during monitoring.

25                   **(3)** When a deviation from a Critical Limit occurs, a Food Processing Plant shall  
26 take Corrective Action by following the procedures as specified in Sub-paragraphs (a) and (b)  
27 of this Paragraph.

28                   **(a)** Food Processing Plants shall develop written Corrective Action plans,  
29 which become part of their HACCP plans, by which Food Processing Plants predetermine the  
30 corrective actions that they will take whenever there is a deviation from a Critical Limit. A  
31 corrective action plan that is appropriate for a particular deviation is one that describes the steps  
32 to be taken and assigns responsibility for taking those steps, to ensure that:

33                         **(i)** No product enters commerce that is either injurious to health or  
34 is otherwise adulterated as a result of the deviation; and

35                         **(ii)** The cause of the deviation is corrected.

36                   **(b)** When a deviation from a Critical Limit occurs, and the Food  
37 Processing Plant does not have a corrective action plan that is appropriate for that deviation, the  
38 Food Processing Plant shall:

39                         **(i)** Segregate and hold the affected product, at least until the  
40 requirements of ii-v of this paragraph are met.

(ii) Perform or obtain a review to determine the acceptability of the affected product for distribution. The review shall be performed by an individual or individuals who have adequate training or experience to perform such review and are approved by the Regulatory Authority.

(iii) Take corrective action, when necessary, with respect to the affected product to ensure that no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation.

(iv) Take corrective action, when necessary, to correct the cause of the deviation.

(v) Perform or obtain timely verification as specified in Sub-section O of this section, by an individual or individuals who have been trained in accordance with Sub-section V of this section, to determine whether modification of the HACCP Plan is required to reduce the risk of recurrence of the deviation, and to modify the HACCP Plan as necessary.

(c) All corrective actions taken in accordance with this section shall be fully documented in records that are subject to verification in accordance Sub-section O or this section and the recordkeeping requirements of Sub-sections S, T, and U of this Section.

**O. Verification Requirements.** Food processing plants shall verify that the HACCP system is being implemented according to design.

(1) Verification activities shall include:

(a) A review of any consumer complaints that have been received by the Food processing plants shall verify that the HACCP system is being implemented according to design to determine whether such complaints relate to the performance of the HACCP Plan or reveal previously unidentified critical control points;

(b) The calibration of process monitoring instruments;

(c) At the option of the Food Processing Plant, the performance of periodic end-product or in-process testing.

(d) A review, including signing and dating, by an individual who has been trained in accordance with Sub-section V of this section, of the records that document:

(i) The monitoring of critical control points. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that the records document values that are within the Critical Limits. This review shall occur within 7 days of the day that the records are made;

(ii) The taking of corrective actions. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that appropriate corrective actions were taken in accordance with Paragraph 3 of Sub-section N. This review shall occur within 7 days of the day that the records are made;

(iii) The calibrating of any process monitoring instruments used at Critical Control Points and the performance of any periodic end-product or in-process testing that is part of the Food Processing Plants Verification activities. The purpose of these reviews

1 shall be, at a minimum, to ensure that the records are complete and that these activities  
2 occurred in accordance with the Food Processing Plant's written procedures. These reviews  
3 shall occur within seven (7) days of the day that the records are made; and

4 (iv) The following of procedures as specified in Paragraph 3 of Sub-  
5 section N when any Verification procedure, including the review of consumer complaints,  
6 establishes the need to take a corrective action.

7 **P. Validation of HACCP Plan.** Food Processing Plants shall validate that the  
8 HACCP Plan is adequate to control Food Hazards that are reasonably likely to occur.

9 (1) Validation shall:

10 (a) Occur at least once within 12 months after implementation and at least  
11 annually thereafter or whenever any changes in the process occur that could affect the hazard  
12 analysis or alter the HACCP Plan in any way. Such changes may include: Raw materials or  
13 source of raw materials; product formulation; processing methods or systems, including  
14 computers and their software; packaging; finished product distribution systems; or the intended  
15 use or consumers of the finished product.

16 (b) Be performed by an individual or individuals who have been trained in  
17 accordance with Sub-section V and shall be subject to the recordkeeping requirements of Sub-  
18 sections R, S, T, and U of this section.

19 (2) The HACCP Plan shall be modified immediately when a validation reveals  
20 that the plan is no longer adequate to fully meet the requirements of this Section.

21 (3) The modified HACCP Plan shall be submitted to the Regulatory Authority  
22 for Approval within twenty-four (24) hours of making modifications as specified Paragraph 3  
23 of this sub-section.

24 **Q. Validation of the Hazard Analysis.**

25 (1) Whenever a Food Processing Plant has no HACCP Plan because a Hazard  
26 Analysis has revealed no Food Hazards that are reasonably likely to occur, the Food Processing  
27 Plant shall reassess the adequacy of that Hazard Analysis whenever there are any changes in  
28 the process that could reasonably affect whether a Food Hazard exists.

29 (2) Such changes may include: Raw materials or source of raw materials;  
30 product formulation; processing methods or systems, including computers and their software;  
31 packaging; finished product distribution systems; or the intended use or intended consumers of  
32 the finished product.

33 (3) The Validation of the Hazard Analysis shall be performed by an individual  
34 or individuals who have been trained in accordance with Sub-section V of this Section, and,  
35 records documenting the validation shall be subject to the recordkeeping requirements of Sub-  
36 sections R, S, T, and U of this section.

37 **R. Required records.** Food Processing Plants shall maintain the following records  
38 documenting the HACCP system:

39 (1) Records documenting the implementation of the Sanitation Standard  
40 Operating Procedures (SSOP's).

- 1                   (2) The written Hazard Analysis.  
2                   (3) The written HACCP Plan.  
3                   (4) Records documenting the ongoing application of the HACCP Plan that  
4 include:  
5                   (a) Monitoring of Critical Control Points and their Critical Limits,  
6 including the recording of actual times, temperatures, or other measurements, as prescribed in  
7 the HACCP Plan.  
8                   (b) Corrective Actions, including all actions taken in response to a  
9 deviation.  
10                   (c) Records documenting Verification of the HACCP system and  
11 Validation of the HACCP Plan or Hazard Analysis, as appropriate.

12           **S. General records requirements.** All records required by this Section shall  
13 include:

- 14                   (1) The name and address of the Food Processing Plant.  
15                   (2) The date and time of the activity that the record reflects, except that records  
16 required by Paragraphs 2, 3, and 5 of Sub-section R of this section need not include the time;  
17                   (3) The signature or initials of the person performing the operation or creating  
18 the record.  
19                   (4) The identity of the product and where appropriate, the batch number or lot  
20 number of the product. Processing and other information shall be entered on records at the time  
21 that it is observed. The records shall contain the actual values and observations obtained during  
22 monitoring.

23           **T. Signing of records.**

24                   (1) The records in Paragraphs 2 and 3 of Sub-Section R of this section shall be  
25 signed and dated by the most responsible individual onsite at the Food Processing Plant or by a  
26 higher level official of the Food Processing Plant. These signatures shall signify that these  
27 records have been accepted by the firm.

28                   (2) The records required in Paragraphs 2 and 3 of Sub-Section R of this section  
29 shall be signed and dated:

- 30                   (a) Upon initial acceptance.  
31                   (b) Upon any modification.  
32                   (c) Upon verification and validation in accordance with Sub-sections O  
33 and P of this section.

34           **U. Record retention.**

35                   (1) All records required by this part shall be retained at the food processing plant  
36 for, in the case of perishable or refrigerated food, at least one year after the date that such  
37 products were prepared, and for, in the case of frozen, preserved, or shelf stable products, two  
38 years or the shelf life of the product, whichever is greater, after the date that the products were  
39 prepared.

1           (2)   Offsite storage of processing records is permitted after six (6) months  
2 following the date that the monitoring occurred, if such records can be retrieved and provided  
3 onsite within twenty-four (24) hours of request for official review. Electronic records are  
4 considered to be onsite if they are accessible from an onsite location and comply with  
5 Paragraph 5 of this sub-section.

6           (3)   If the processing facility is closed for a prolonged period between seasonal  
7 packs, the records may be transferred to some other reasonably accessible location at the end of  
8 the seasonal pack but shall be immediately returned to the processing facility for official review  
9 upon request.

10          (4)   All records required by this section shall be available for review and copying  
11 by the Regulatory Authority at reasonable times.

12          (5)   The maintenance of computerized records is acceptable if the Food  
13 Processing Plant can demonstrate the accuracy, consistency, and retention capabilities to the  
14 Regulatory Authority.

#### 15       **V.     Training.**

16          (1)   In addition to meeting the Certified food protection manager requirement as  
17 specified in Section 2-102.12 of the Food Code, employees performing the functions listed in  
18 Paragraph B of this Sub-section shall have successfully completed Approved training in the  
19 application of HACCP principles, or shall be otherwise qualified through job experience and  
20 Approved to perform these functions. Job experience may qualify an employee to perform  
21 these functions if such experience has provided knowledge at least equivalent to that provided  
22 through the Approved training.

23          (2)   Only an employee who has met the requirements of Paragraph 1 of this Sub-  
24 section shall be responsible for the following functions:

25               (a)   Developing the Hazard Analysis, including delineating control  
26 measures.

27               (b)   Developing a HACCP Plan that is appropriate for a specific Food  
28 Processing Plan location.

29               (c)   Verifying and modifying the HACCP Plan in accordance with the  
30 Corrective Action procedures and the Validation activities specified in this Section.

31               (d)   Performing the record review required by Sub-paragraph 1d of Sub-  
32 section O of this section.

#### 33       **W.     Labeling requirements.**

34          (1)   Food Processing Plants shall label packaged food in accordance with the  
35 applicable requirements of Title 21, Code of Federal Regulation, Part 101 or Title 9.

36          (2)   Packaged food that does not comply with the requirements of this Sub-  
37 section shall be deemed to be Misbranded.

#### 38       **X.     Sanitation Standard Operating Procedures Requirements.**

39          (1)   Sanitation controls. Food Processing Plants shall have and implement  
40 Sanitation Standard Operating Procedures (SSOPs) that addresses sanitation conditions and  
41 practices before, during, and after processing. The SSOPs shall address:



- (a) Safety of the water that comes into contact with Food or food-contact surfaces or that is used in the manufacture of ice;
- (b) Condition and cleanliness of food-contact surfaces, including utensils, gloves, and outer garments;
- (c) Prevention of cross contamination from insanitary objects to Food, food- packaging material, and other food-contact surfaces, including utensils, gloves, and outer garments, and from raw product to processed product;
- (d) Maintenance of hand washing, hand sanitizing, and toilet facilities;
- (e) Protection of Food, food-packaging material, and food-contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants;
- (f) Proper labeling, storage, and use of toxic compounds;
- (g) Control of Employee health conditions that could result in the microbiological contamination of Food, food-packaging materials, and food-contact surfaces; and
- (h) Exclusion of pests from the Food Processing Plant.
- (2) Monitoring. Food Processing Plants shall monitor the conditions and practices during processing with sufficient frequency to ensure, at a minimum, conformance with those conditions and practices specified in this Section that are appropriate both to the plant and to the Food being processed. Each Food Processing Plant shall correct, in a timely manner, those conditions and practices that are not met.
- (3) Records. Food Processing Plants shall maintain SSOPs records that, at a minimum, document the monitoring and corrections prescribed by Paragraph 1 of this sub-section. These records are subject to the recordkeeping requirements as specified in Sub-sections R, S, T and U of this section.
- (4) Relationship to Hazard Analysis and Critical Control Point (HACCP) plan. Sanitation Standard Operating Procedure controls may be included in the HACCP plan.. However, to the extent that they are implemented in accordance with this sub-section, they need not be included in the HACCP plan.

[7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

#### **7.6.2.12 JERKY MANUFACTURED FOOD REQUIREMENTS:**

**A.** In addition to complying with the requirements specified in Section 11 of this part, Food Processing Plants that produce Jerky shall comply with the requirements specified in this Section.

**B.** Food Processing Plants that produce Jerky shall have the appropriate Approved equipment to measure and monitor food safety factors related to the production of Jerky.

**C.** Cooking. The following parameters shall be achieved during the Jerky cooking process:

(1) Minimum internal temperature of 145<sup>0</sup>F for 4 minutes for Meat and 165<sup>0</sup>F instantaneous for Poultry.

(2) Achieve and maintain a minimum wet bulb temperature of 125<sup>0</sup>F or above with a corresponding dry bulb temperature resulting in a minimum relative humidity of 27%.

1           (3) Maintain a steady or increasing relative humidity level throughout the  
2 cooking process.

3           (4) Maintain requirements in Sub-paragraph b of this paragraph for a minimum  
4 of one hour, and no less than 50% of the cooking time.

5           (5) Prior to beginning the cooking time as specified in Sub-paragraph d of this  
6 paragraph, the conditions outlined in Sub-paragraph b of this paragraph are met.

7       **D.** Food Establishments that produce Jerky shall:

8           (1) Meet the requirements of Sub-sections B and C this section.

9           (2) Have an approved Operational Plan for each product produced.

10          (3) Keep the Operational Plan on file at the Food Establishment.

11          (4) Follow the approved Operational Plan and not deviate from it without  
12 approval from the Regulatory Authority.

13          (5) Monitor and record Food safety factors, including but not limited to, time,  
14 temperature, and humidity and make the records available to the Regulatory Authority.

15 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]  
16

#### 17 **7.6.2.13 BOTTLED DRINKING WATER MANUFACTURED FOOD** 18 **REQUIREMENTS:**

19       **A.** In addition to meeting the requirements specified in Section 11 of this part, Food  
20 Processing Plants that produce Bottled Drinking Water shall comply with the requirements  
21 specified in this Section.

22       **B.** Bottled Drinking Water processing operational requirements and standards.

23           (1) The Bottled Drinking Water plant shall follow generally accepted Good  
24 Manufacturing Practice such as contained in 21 CFR Part 129 or the International Bottled  
25 Water Association Bottled Water Code of Practice.

26           (2) Bottled Drinking Water which is bottled through lines or equipment used for  
27 food or milk products shall demonstrate (assure) that the cleaning process prevents adulteration  
28 of the bottled water. Bottled Drinking Water shall not be transported or stored in bulk tanks  
29 used for any non-food product, nor processed or bottled through equipment or lines used for  
30 any non-food product.

31       **C.** **Bottled Drinking Water labeling requirements.** All Bottled Drinking Water  
32 labels shall meet the requirements specified in Sub-section W of Section 11 of this part.

33       **D.** **Analytical requirements.** Unless otherwise provided in this part, samples shall  
34 be collected, prepared, and examined using the most current methods for the examination of  
35 drinking water listed in 40 CFR Part 14) or by other methods for the examination of drinking  
36 water approved by the United States Environmental Protection Agency. Examination of  
37 samples shall be performed by an Approved laboratory.

38       **E.** **Monitoring requirements.**

39           (1) Bottled Drinking Water plants shall be required to submit one  
40 microbiological sample per finished product per week. A copy of the microbiological analysis  
41 report shall be submitted within ten working days of analysis to the Regulatory Authority.

Any coliform or fecal coliform positive result shall require the plant owner or operator to notify the Regulatory Authority within twenty-four (24) hours and to submit to resampling guidelines specified in 20.7.10 NMAC.

(2) Bottled Drinking Water Plants that know that a Maximum Contaminant Level, as specified in 20.7.10 NMAC, has been exceeded or who have reason to believe circumstances exist that may adversely affect the safety of Bottled Drinking Water, including but not limited to source contamination, spills, accidents, natural disasters, or breakdowns in treatment, shall notify the Regulatory Authority within twenty-four (24) hours.

[7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

**7.6.2.14 SHELLFISH REQUIREMENTS: Adoption of National Shellfish Sanitation Program (NSSP) Guide for Control of Molluscan Shellfish.** Except as otherwise provided, the 2013 NSSP Guide for Control of Molluscan Shellfish is hereby incorporated by reference.

[7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

**7.6.2.15 HOME-BASED FOOD PROCESSING:**

**A. Plan Review, Permitting, Inspection, and Training Requirements.**

(1) No person shall operate a Home-based Food Processing Operation without a Permit.

(2) In addition to meeting the applicable requirements of Chapters 1-8 of the Food Code and Section 11 of this part, Home-based Food Processing Operations shall comply with the requirements specified in this Section.

(3) Home-Based Food Processing Operations shall meet the specifications of Part 2-1 of the Food Code.

(4) The Permit issued shall be displayed at the Home-based Food Processing Operation. A copy of the Permit shall be displayed at places at which the operator sells Food at times when the operator is selling the home-based processed Foods.

**B. Food Protection Requirements.**

(1) Home-based processed Food products and components shall be stored separate and apart from residential Foods and protected from contamination, insects, rodents, pests, water leaks, dust, dirt and other contaminants.

(2) Home-Based Food Processing Operations must keep a sample of each processed Food batch for fourteen days. The samples shall be labeled with the production date and time.

(3) Vehicles used in transporting home-based processed Food products shall be maintained in a safe and sanitary manner. Vehicle compartments used to transport animals shall not be used for transporting home-based processed Foods.

**C. Exceptions and Limitations.**

(1) The following provisions from the Food Code shall not apply to Home-based Food Processing Operations:

(a) 8-407.11;

(b) 4-301.12(A);

- (c) 5-501.11;
- (d) 4-903.11;
- (e) 4-803.11;
- (f) 6-202.112;
- (g) 4-803.13(A);
- (h) 4-402.11;
- (i) 4-402.12;
- (j) 4-205.10
- (k) 8-101.10(B)
- (l) 6-202.14
- (m) 6-201.14
- (n) 6-201.13
- (o) 4-701.10
- (p) 5-204.11
- (q) 6-301.12(A)
- (r) 2-401.11
- (s) 6-501.115
- (t) 5-501.10

(2) Food products processed by Home-based Food Processing Operations shall not be Potentially Hazardous Foods and shall be Approved by the Regulatory Authority.

(3) Home-based Food Processing Operations shall only sell their products at farmer's markets, roadside stands, festivals, or other venues in which the producer sells directly to the consumer.

(4) Products processed by a Home-based Food Processing Operation shall not be sold, used, or offered for consumption in Food Establishments including, but not limited to, restaurants, grocery stores and convenience stores, by internet sales, or sold in interstate commerce.

(5) Pets shall not be permitted in the kitchen and shall be kept out of Food preparation areas during home-based food processing related activities.

(6) Non-employees shall not be allowed entry into the kitchen during home-based food processing related activities. Home-based Food Processing Operations shall not wash out or clean pet cages, pans or similar items in the kitchen.

(7) Household cooking may not occur in the kitchen during home-based food processing related activities.

(8) The following provisions from the Food Code are applicable to Home-based Food Processing Operations only during home-based food processing related activities:

- (a) 3-304.11;
- (b) 5-205.11;
- (c) 6-301.12;
- (d) 2-401.11;
- (e) 6-501.115;
- (f) 5-501.13.

(9) Home-based Food Processing Operations shall submit an Operational Plan and a detailed procedure to be used to clean and sanitize the kitchen sink before and during home-based food processing related activities

1           **(10)** Home-Based Food Processing Operations shall comply with Sub-section 5-  
2 402.11 of the Food Code unless an alternative method is Approved.

3           **D. Home-Based Food Labeling.** A Home-based Food Processing Operation shall  
4 properly label all Foods in accordance with Sub-section W of Section 11 of this part and include  
5 the words “Home Produced” in bold conspicuous 12 point type on the principal display panel.  
6 [7.6.2.7 NMAC - Rp, 7 NMAC 6.1.103, 08/12/2000, 01/01/2010; Rp, x/x/2016]  
7

8 **HISTORY OF 7.6.2 NMAC:**

9 **Pre-NMAC History:** Material in the part was derived from that previously filed with the  
10 commission of public  
11 records - state records center and archives:

12 EIB Rule 73-1, Regulations Governing Food Protection In Food-Service Establishments, 6/25/73

13 EIB Rule FQM 2, Food Service Regulations; 10/15/80

14 EIB Rule FQM 2, Food Service Regulations; 11/14/85

15 EIB Rule FQM 2, Food Service and Processor Regulations; 5/22/90

16 EIB Rule FQM 2, Food Service And Processor Regulations; 12/02/92  
17

18 **History of Repealed Material:**

19 7 NMAC 6.1 Food Service And Food Processing Regulations - Repealed, 08/12/2000